

**COURT OF APPEALS
DECISION
DATED AND FILED**

February 26, 1998

Marilyn L. Graves
Clerk, Court of Appeals
of Wisconsin

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62, STATS.

No. 97-2273-CR-NM

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT IV**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

v.

WILLIAM L. TSCHIRLEY,

DEFENDANT-APPELLANT.

APPEAL from a judgment of the circuit court for Vernon County:
MICHAEL J. ROSBOROUGH, Judge. *Affirmed.*

ROGGENSACK, J. William Tschirley appeals from a judgment convicting him of misdemeanor battery. Tschirley's appointed appellate counsel filed a no merit report pursuant to RULE 809.32, STATS., and *Anders v. California*, 386 U.S. 738 (1967). Tschirley received the report and was advised of his right to file a response, but he has not done so. After considering the report and

conducting an independent review of the record, the court concludes that there is no arguable merit to any issue that could be raised on appeal.

The no merit report addresses whether there was sufficient evidence to support the conviction. “[A] jury verdict will be overturned only if, viewing the evidence most favorably to the state and the conviction, it is inherently or patently incredible, or so lacking in probative value that no jury could have found guilt beyond a reasonable doubt.” *State v. Alles*, 106 Wis.2d 368, 376-77, 316 N.W.2d 378, 382 (1982) (emphasis omitted).

The victim, Tschirley’s wife, testified that they were having an argument, that she got angry, went to the stove, and flipped hamburgers Tschirley was cooking out of the pan. Tschirley struck her on the left side of the face with the backside of his hand and he did so without her consent. She testified that this caused her pain. Given this testimony, there is no arguable merit to a claim that there was insufficient evidence to support the conviction.

Our independent review of the record reveals no other potential issues. Therefore, we affirm the judgment of conviction and relieve Attorney Timothy Gaskell of further representing Tschirley in this matter.

By the Court.—Judgment affirmed.

